

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE OR CHANGE

The agency identified below in box 1 provides notice of proposed rule or change pursuant to Utah Code Subsections 63-46a-4(2) and (4). Please address questions regarding information on this notice to the agency. The full text of all rule filings is published in the *Utah State Bulletin* unless excluded because of space constraints. The full text of all rule filings may also be inspected at the Division of Administrative Rules.

State of Utah Division of Administrative Rules (DAR) 4120 State Office Building; 450 North Main PO Box 141007 Salt Lake City, UT 84114-1007 Phone: (801) 538-3218, FAX: (801) 538-1773 State E-mail: asdomain.asitmain.rules	<table border="1" style="width: 100%; border-collapse: collapse;"><tr><td style="padding: 2px;">DAR file no.:</td></tr><tr><td style="padding: 2px;">Utah Admin. Code ref. (R no.): R68-15</td></tr><tr><td style="padding: 2px;">Date filed:</td></tr><tr><td style="padding: 2px;">Time filed:</td></tr><tr><td style="padding: 2px;">Received by:</td></tr></table>	DAR file no.:	Utah Admin. Code ref. (R no.): R68-15	Date filed:	Time filed:	Received by:															
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2. Title of rule or section (catchline): Quarantine Pertaining to Japanese Beetle, (Popillia Japonica).																					
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4. Purpose of the rule or reason for the change: This rule is established to control the spread of Japanese Beetle within the State of Utah. This beetle, which in the larval state, attacks the roots of many plants and as an adult attacks the leaves and fruits of many plants.																					
5. This rule or change is a response to comments by the Administrative Rules Review Committee. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																					
6. Summary of the rule or change: To include the following states as areas under quarantine: Iowa, Kansas and Nebraska. Re-establish R68-15-5, Restrictions to more fully meet the needs for this quarantine.																					
7. Aggregate anticipated cost or savings to: <table style="width: 100%;"><tr><td style="width: 20%;">State budget:</td><td>No anticipated cost to state government. The cost would be to the shipper if the quarantine is violated.</td></tr><tr><td>Local government:</td><td>No anticipated cost to local government. The cost would be to the shipper if the quarantine is violated.</td></tr></table>		State budget:	No anticipated cost to state government. The cost would be to the shipper if the quarantine is violated.	Local government:	No anticipated cost to local government. The cost would be to the shipper if the quarantine is violated.																
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Other persons: Cost would be to shipper if the quarantine is violated.

8. Compliance costs for affected persons ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):

Noncompliance with the quarantine provisions may result in Civil Penalties up to \$5,000 per violation and/or revocation of nursery license.

9. Comments by the department head on the fiscal impact the rule may have on businesses:

If there is a violation to this quarantine there would be a cost to the owner, or owners, or their duly authorized agent for treatment of destruction of the infected plants. Noncompliance with the quarantine provisions may result in Civil Penalties up to \$5,000 per violation and/or revocation of nursery license.

10. This rule or change is authorized or mandated by state law, and implements or interprets the following state and federal laws.

State code or constitution citations (required): 4-2-2(1)(j) and 4-2-2(1)(1)(ii)

Federal citations (optional):

11. This rule or change adds or updates an incorporated reference (submit a copy to DAR):

Reference title and date of issue or edition:

☐ Yes ☒ No

12. The public may submit written or oral comments to the agency identified in box 1. (The public may also req

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a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the *Utah State Bulletin*. See Section 63-46a-5 and Rule R15-1 for more information.)

Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy): 1/14/99

A public hearing (optional) will be held on (mm/dd/yyyy): 1/7/99

at (time): 10:00am

at (place): 350 North Redwood Road, Salt Lake City, UT

13. This rule or change may become effective on (mm/dd/yyyy): 1/15/99

14. Indexing information - keywords (maximum of four, in lower case):
quarantine

15. Indexing information - affected industries (two-digit SIC codes):
07

16. Attach a WordPerfect document containing the text of this rule or change (filename): R068-015.txt

To the agency: Information requested on this form is required by Sections 63-46a-4, 5, 6, and 10. Incomplete forms may be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

AGENCY AUTHORIZATION

Agency head or designee, and title:	Cary G. Peterson, Commissioner	Date (mm/dd/yyyy):	11/25/98
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R68. Agriculture and Food, Plant Industry.

R68-15. Quarantine Pertaining to Japanese Beetle, (*Popillia Japonica*).

R68-15-1. Authority.

A. Promulgated under authority of Subsection 4-2-2-(1)(j) and 4-2-2(1)(1)(ii).

B. Refer to the Notice of Quarantine, Japanese Beetle, (*Popillia*

Japanica), Effective January 4, 1993, issued by Utah Department of Agriculture and Food.

R68-15-2. Pest.

Japanese beetle, *Popillia japonica*, a beetle, family Scarabaeidae, which in the larval state attacks the roots of many plants and as an adult attacks the leaves and fruits of many plants.

R68-15-3. Areas Under Quarantine.

A. The following states have been placed under a general quarantine to prohibit the entry of Japanese Beetle into Utah through the sale of plants and plant products: the entire states of Alabama, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

B. The same general quarantine shall apply [~~to products~~] from the following states in provinces of Canada:

1. In the Province of Ontario: Lincoln, Welland, and Wentworth.
2. In the Province of Quebec: Missiquoi and St. Jean.

C. Any areas not mentioned above which are subsequently found to be infested with Japanese Beetle, shall also be placed under this same general quarantine.

R68-15-4. Articles and Commodities Under Quarantine.

A. The following are hereby declared to be hosts and possible carriers of all stages of the Japanese beetle:

1. Soil, humus, compost and manure (except when commercially packaged and treated);
2. All plants with roots (except bareroot plants free from soil).
3. Grass Sod;
4. Plant crowns or roots for propagation (except when free from soil);
5. Bulbs, corms, tubers, and rhizomes of ornamental plants (except when free from soil);
6. Any other plant, plant part, article, or means of conveyance when it is determined by a Utah State Plant Quarantine Officer to present a hazard of spreading live Japanese beetle due to infestation or exposure to infestation by Japanese beetle.

B. Soil - For the purpose of this quarantine, soil is defined as all growing media in which the plants are actually rooted. Packing material other than soil, added to bareroot plants after harvesting would not normally pose a pest risk. Packing material would be covered under (6) above, at the inspector's discretion.

C. Free From Soil - For the purposes of this quarantine, free from soil is defined as soil in amounts that could not contain concealed Japanese beetle larvae or pupae.

R68-15-5. Restrictions.

~~[A. All articles and commodities under quarantine are prohibited entry into Utah from an area under quarantine or an area known to be infested with the following exceptions:~~

- ~~1. Certificate of Treatment. All of the articles and commodities~~

~~covered are approved for entry into Utah when accompanied by a certificate issued by an authorized state agricultural official at origin stating that the article or shipment was treated for Japanese beetle or grown in accordance with methods and procedures approved and prescribed by the Commissioner of the Utah Department of Agriculture and Food. A Certificate of Treatment must include the date of treatment. Shipment of the articles or commodities must not take place sooner than ten (10) days after the date of treatment.~~

~~— 2. Certificate of Origin. Commercial plant shipments with soil may be shipped from an area under quarantine into Utah provided such shipments are accompanied by a certificate issued by an authorized state agricultural official at origin. Such certificates shall be used only if the shipment confirms fully with either (a), (b), or (c) below:~~

~~— a. The greenhouse in which the plants were produced was tightly constructed so that adult Japanese beetles would not gain entry, the plants and greenhouses were inspected and found to be free from all stages of Japanese beetle, and the plants and soil were protected from subsequent infestation while being stored, packed and shipped; or~~

~~— b. The plants were not produced in the regulated area, were transported into the regulated area in a closed conveyance or closed containers and at all times thereafter were protected from becoming infested with Japanese beetle; or~~

~~— c. States or portions of states listed in the area under quarantine may have counties that are not infested with Japanese beetle. Shipments of articles and commodities covered will be accepted from these noninfested counties if annual surveys are made in such counties and the results of such surveys are negative for Japanese beetle. A list of counties so approved will be maintained by the Commissioner of the Utah Department of Agriculture and Food.~~

~~— 3. Agricultural officials of other states may recommend a noninfested county be placed on the approved county list by writing for such approval and stating how the surveys were made giving the following information:~~

~~— i. Area surveyed.~~

~~— ii. How survey was carried out.~~

~~— iii. Personnel involved.~~

~~— iv. If county was previously infested, give date of last infestation.~~

~~— v. The recommendation for approval of such counties will be evaluated by the Division of Plant Industry, Utah Department of Agriculture and Food.~~

~~If heavy infestations occur in neighboring counties, approval may be denied. To be maintained on approved list, each county must be reproofed every twelve (12) months. Shipments of articles and commodities under quarantine from noninfested counties will only be allowed entry into Utah if the noninfested county has been placed on the approved list prior to the arrival of the shipment to Utah.~~

~~— 4. Privately owned house plants grown indoors may be inspected and approved for entry by Utah State Plant Quarantine Officers if found free from Japanese beetle.]~~

All commodities covered are prohibited entry into Utah from the area under quarantine unless they have the required certification. Plants may be shipped from the area under quarantine into Utah provided such shipments conform to one of the options below and are accompanied by a certificate issued by an authorized state agricultural official at origin. Note that not all protocols approved in the U.S.

Domestic Japanese Beetle Harmonization Plan are acceptable for Utah. Advance notification of regulated commodity shipment is required. The certificate shall bear the name and address of the shipper and receiver as well as the inspection/certificate date and the signature of state agricultural office. The certifying official shall mail, FAX or e-mail a copy of the certificate to Director, Plant Industry Division, Utah Department of Agriculture and Food, 350 North Redwood Road, P.O. Box 146500, Salt Lake City, Utah 84114-6500, FAX: (801)538-7189, e-mail: agmain.dwilson@state.ut.us. The shipper shall notify the receiver to hold such commodities for inspection by the Utah Department of Agriculture and Food. The receiver must notify the Utah Department of Agriculture and Food of the arrival of commodities imported under the provisions of this quarantine and must hold such commodities for inspection. Such certificates shall be issued only if the shipment conforms fully with (a), (b), (c), (d) or (e) below:

(a) Production in an Approved Japanese Beetle Free Greenhouse/Screenhouse. All the following criteria apply*Ñl media must be sterilized and free of soil; All stock must be free of soil (bareroot) before planting into the approved medium; The potted plants must be maintained within the greenhouse/screenhouse during the entire adult flight period; During the adult flight period the greenhouse/screenhouse must be made secure so that adult Japanese beetles cannot gain entry. Security will be documented by the appropriate phytosanitary officials of the origin state department of agriculture and must be specifically approved as a secure area. They shall be inspected by the same officials for the presence of all life stages of the Japanese beetle; The plants and their growing medium must be appropriately protected from subsequent infestation while being stored, packed and shipped; Certified greenhouse/screenhouse nursery stock may not be transported into or through any infested areas unless identity is preserved and adequate safeguards are applied to prevent possible infestation; Each greenhouse/screenhouse operation must be approved by the phytosanitary officials as having met and maintained the above criteria, and issued an appropriate certificate bearing the following declaration: "The rooted plants (or crowns) were produced in an approved Japanese beetle free greenhouse or screenhouse." The certificate accompanying the shipment must have the same statement as an additional declaration.

(b) Production During a Pest Free Window. The entire rooted plant production cycle will be completed within a pest free window, in clean containers with sterilized and soilless growing medium, i.e., planting, growth, harvest, and shipment will occur outside the adult Japanese beetle flight period, June through October. The accompanying phytosanitary certificate shall bear the following additional declaration: "These plants were produced outside the Japanese beetle flight season."

(c) Applications of Approved Regulatory Treatments. All treatments will be performed under direct supervision of a phytosanitary official of the origin state department of agriculture or under a compliance agreement thereof. Treatments and procedures under a compliance agreement will be monitored closely throughout the season. State phytosanitary certificates listing and verifying the treatment used must be forwarded to the receiving state via fax or electronic mail, as well as accompanying the shipment. Note that not all treatments approved in the U.S. Domestic Japanese Beetle Harmonization Plan are acceptable for Utah. The phytosanitary certificate

shall bear the following additional declaration: " The rooted plants were treated to control *Popillia japonica* according to the criteria for shipment to category 1 states as provided in the U.S. Domestic Japanese Beetle Harmonization Plan."

(A) Dip Treatment - B&B and Container Plants. Not approved.

(B) Drench Treatments - Container Plants Only. Not approved for ornamental grasses or sedges. Potting media used must be sterile and soilless, containers must be clean. Field potted plants are not eligible for certification using this protocol. This is a prophylactic treatment protocol targeting eggs and early first instar larvae. If the containers are exposed to a second flight season they must be retreated.

(1) Imidacloprid (Marathon 60WP). Apply one-half (0.5) gram of active ingredient per gallon as a prophylactic treatment just prior to Japanese beetle adult flight season (June 1, or as otherwise determined by the phytosanitary official). Apply tank mix as a drench to wet the entire surface of the potting media. A twenty-four (24) gallon tank mix should be enough to treat 120-140 one-gallon containers. Avoid over drenching so as not to waste active ingredient through leaching. During the adult flight season, plants must be retreated after sixteen (16) weeks if not shipped to assure adequate protection.

(2) Bifenthrin (Talstar Nursery Flowable 7.9%). Mix at the rate of twenty (20) ounces per 100 gallons of water. Apply, as a drench, approximately eight (8) ounces of tank mix per six (6) inches of container diameter.

(C) Media (Granule) Incorporation - Container Plants Only. All pesticides used for media incorporation must be mixed prior to potting and plants potted a minimum of thirty (30) days prior to shipment. Potting media used must be sterile and soilless; containers must be clean. The granules must be incorporated into the media prior to potting. Field potted plants are not eligible for treatment. This treatment protocol targets eggs and early first instar larvae and allows for certification of plants that have been exposed to only one flight season after application. If the containers are to be exposed to a second flight season they must be repotted with a granule incorporated mix or retreated using one of the approved drench treatments. Pesticides approved for media incorporation are:

(1) Imidacloprid (Marathon 1G). Mix at the rate of five (5) pounds per cubic yard.

(2) Bifenthrin (Talstar Nursery Granular or Talstar T&O Granular (0.2)). Mix at the rate of 25 ppm or one-third (0.33) of a pound per cubic yard based on a potting media bulk density of 200.

(3) Tefluthrin (Fireban 1.5 G). Mix at the rate of 25 ppm based on a potting media bulk density of 400.

(D) Methyl Bromide Fumigation. Nursery stock: methyl bromide fumigation at NAP, chamber or tarpaulin. See the California Commodity Treatment Manual for authorized schedules.

(d) Detection Survey for Origin Certification. Japanese Beetle Harmonization Plan protocol not approved. Alternative approved protocol: States listed in the area under quarantine may have counties that are not infested with Japanese beetle. Shipments of commodities covered may be accepted from these noninfested counties if annual surveys are made in such counties and adjacent counties and the results of such surveys are negative for Japanese beetle. In addition, the plants must be greenhouse grown or

contained in media that is sterilized and free of soil and the shipping nursery must grow all their own stock from seed, unrooted cuttings or bareroot material. A list of counties so approved will be maintained by the Utah Department of Agriculture and Food. Agricultural officials from a quarantined state or province may recommend a noninfested county be placed on the approved county list by writing for such approval and stating how surveys were conducted giving the following information:

(A) Areas surveyed

(B) How survey was carried out

(C) Number of traps

(D) Results of survey

(E) History of survey

If a county was previously infested, give date of last infestation. If infestations occur in neighboring counties, approval may be denied. To be maintained on the approved list, each county must be reapproved every twelve (12) months. Shipments of commodities covered from noninfested counties will only be allowed entry into Utah if the uninfested county has been placed on the approved list prior to the arrival of the shipment in Utah. The certificate must have the following additional declaration: "The plants in this consignment were produced in (name of county), state of (name of state of origin) that is known to be free of Japanese beetle."

(e) Privately owned house plants obviously grown, or certified at the place of origin as having been grown indoors without exposure to Japanese beetle may be allowed entry into this state without meeting the requirements of section (4). Contact the Utah Department of Agriculture and Food for requirements: Director, Plant Industry Division, Utah Department of Agriculture and Food, 350 North Redwood Road, P.O. Box 146500, Salt Lake City, Utah 84114-6500, FAX: (801)538-7189, e-mail: agmain.dwilson@state.ut.us.

R68-15-6. Disposition of Violations.

Any or all shipments or lots of quarantined articles or commodities listed in R68-15-4 above arriving in Utah in violation of this quarantine shall immediately be sent out of the state, destroyed, or treated by a method and in a manner as directed by the Commissioner of the Utah Department of Agriculture and Food or his agent. Treatment shall be performed at the expense of the owner, or owners, or their duly authorized agent.

KEY: quarantine

July 2, 1998

Notice of Continuation March 5, 1998

4-2-2

4-35-9

